

agent in charge of any office of the person, or by mailing them by registered or certified mail to that agent or representative and the fees are made available prior to the return date.

(f) The original subpoena bearing a certificate of service shall be filed with the official having responsibility for the proceeding in connection with which the subpoena was issued.

(g) A subpoenaed witness shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(h) Notwithstanding the provisions of paragraph (g) of this section, and upon request, the witness fees and mileage may be paid by the PHMSA if the official who issued the subpoena determines on the basis of good cause shown, that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage.

(i) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the official who issued the subpoena, or if the person is unavailable, to the Administrator, PHMSA to quash or modify the subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The Administrator, PHMSA, or this issuing official, as the case may be, may:

(1) Deny the application;

(2) Quash or modify the subpoena; or

(3) Condition a grant or denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. The denial may be summary.

(j) Upon refusal to obey a subpoena served upon any person under the provisions of this section, the PHMSA may request the Attorney General to seek the aid of the U. S. District Court for any District in which the person is

found to compel that person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the PHMSA, or both.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-6, 61 FR 18513, Apr. 26, 1996; Amdt. 190-7, 63 FR 7722, Feb. 17, 1998; 70 FR 11137, Mar. 8, 2005]

§ 190.9 Petitions for finding or approval.

(a) In circumstances where a rule contained in parts 192, 193 and 195 of this chapter authorizes the Administrator to make a finding or approval, an operator may petition the Administrator for such a finding or approval.

(b) Each petition must refer to the rule authorizing the action sought and contain information or arguments that justify the action. Unless otherwise specified, no public proceeding is held on a petition before it is granted or denied. After a petition is received, the Administrator or participating state agency notifies the petitioner of the disposition of the petition or, if the request requires more extensive consideration or additional information or comments are requested and delay is expected, of the date by which action will be taken.

(1) For operators seeking a finding or approval involving intrastate pipeline transportation, petitions must be sent to:

(i) The State agency certified to participate under 49 U.S.C. 60105.

(ii) Where there is no state agency certified to participate, the Administrator, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

(2) For operators seeking a finding or approval involving interstate pipeline transportation, petitions must be sent to the Administrator, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

(c) All petitions must be received at least 90 days prior to the date by which the operator requests the finding or approval to be made.

(d) The Administrator will make all findings or approvals of petitions initiated under this section. A participating

§ 190.11

state agency receiving petitions initiated under this section shall provide the Administrator a written recommendation as to the disposition of any petition received by them. Where the Administrator does not reverse or modify a recommendation made by a state agency within 10 business days of its receipt, the recommended disposition shall constitute the Administrator's decision on the petition.

[Amdt. 190-5, 59 FR 17280, Apr. 12, 1994, as amended by Amdt. 190-6, 61 FR 18513, Apr. 26, 1996; 70 FR 11137, Mar. 8, 2005; 73 FR 16566, Mar. 28, 2008]

§ 190.11 Availability of informal guidance and interpretive assistance.

(a) *Availability of telephonic and Internet assistance.* (1) PHMSA has established a website on the Internet and a telephone line at the Office of Pipeline Safety headquarters where small operators and others can obtain information on and advice about compliance with pipeline safety regulations, 49 CFR parts 190-199. The website and telephone line are staffed by personnel from PHMSA's Office of Pipeline Safety from 9:00 a.m. through 5:00 p.m., Eastern time, Monday through Friday, except Federal holidays. When the lines are not staffed, individuals may leave a recorded voicemail message, or post a message at the OPS website. All messages will receive a response by the following business day. The telephone number for the OPS information line is (202) 366-4595 and the OPS website can be accessed via the Internet at <http://ops.dot.gov>.

(2) PHMSA's Office of the Chief Counsel (OCC) is available to answer questions concerning Federal pipeline safety law, 49 U.S.C. 60101 *et seq.* OCC may be contacted by telephone (202-366-4400) from 9:00 a.m. to 4:00 p.m. Eastern time, Monday through Friday, except Federal holidays. Information and guidance concerning Federal pipeline safety law may also be obtained by contacting OCC via the Internet at <http://rspa-atty.dot.gov>.

(b) *Availability of Written Interpretations.* (1) A written regulatory interpretation, response to a question, or an opinion concerning a pipeline safety issue may be obtained by submitting a written request to the Office of Pipe-

49 CFR Ch. I (10-1-11 Edition)

line Safety (PHP-30), PHMSA, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. The requestor must include his or her return address and should also include a daytime telephone number. Written requests should be submitted at least 120 days before the time the requestor needs the response.

(2) A written interpretation regarding Federal pipeline safety law, 49 U.S.C. 60101 *et seq.*, may be obtained from the Office of the Chief Counsel, PHMSA, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. The requestor must include his or her return address and should also include a daytime telephone number.

[62 FR 24057, May 2, 1997; 62 FR 34415, June 26, 1997, as amended at 70 FR 11137, Mar. 8, 2005; 73 FR 16566, Mar. 28, 2008; 73 FR 16567, Mar. 28, 2008]

Subpart B—Enforcement

§ 190.201 Purpose and scope.

(a) This subpart describes the enforcement authority and sanctions exercised by the Associate Administrator, OPS for achieving and maintaining pipeline safety. It also prescribes the procedures governing the exercise of that authority and the imposition of those sanctions.

(b) A person who is the subject of action pursuant to this subpart may be represented by legal counsel at all stages of the proceeding.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-6, 61 FR 18513, Apr. 26, 1996]

§ 190.203 Inspections and investigations.

(a) Officers, employees, or agents authorized by the Associate Administrator for Pipeline Safety, PHMSA, upon presenting appropriate credentials, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the requirements of 49 U.S.C. 60101 *et seq.*, or regulations or orders issued thereunder.